In the High Court of Punjab and Haryana, Chandigarh.

C.R. No.4995 of 2007 (O&M)

Date of Decision: 08.10.2007

Vijay Joshi

…Petitioner.

Versus

Mohan Singh

…Respondent.

CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr.Munish Jolly, Advocate
for the petitioner.

Mr.N.P.Singh, Advocate
for respondent/caveator.

RAJESH BINDAL, J.

The petitioner-tenant is in revision before this Court against the concurrent finding of facts recorded by both the learned Courts below, whereby his eviction was ordered from the premises in dispute on the ground of personal necessity of the respondent-landlord.

Along with the petition, an application under Order 41 Rule 27 read with Section 151 CPC for seeking permission to place on record Agreement to Sell dated November 12, 2006, between one Surjit Singh and Nitu Sharma, has been filed. By the way of this agreement, learned counsel for the petitioner-tenant wanted to submit that in fact the object of the respondent-landlord is to sell the premises after getting the same vacated from the petitioner-tenant. However, on a query as to whether the Agreement to Sell was entered into by the respondent-landlord, the answer was plain and simple "No" as the vendor in the agreement was one Surjit Singh and not the

respondent-landlord. Accordingly, the additional evidence sought to be placed on record is totally irrelevant and has no bearing for the consideration of the issue in the present case where both the learned Courts below have concurrently found the need of the respondent-landlord to be genuine.

As far as merits are concerned, learned counsel for the petitioner-tenant has submitted that the learned First Appellate Court did not record any finding in detail after considering the various contentions raised by the petitioner-tenant and accordingly, has failed to exercise the jurisdiction vested in it. Further, he submitted that even on merits, the need of the respondent-landlord is not established as in the pleadings, it was suggested by him that the son of the respondent-landlord, for whom the premises is required, had in fact separated from the family and accordingly his need could not be said to be the need of the family. Still further he has submitted that the respondent-landlord, who is an employee with the Co-operative Bank, had vacated the official accommodation in his possession at Chandigarh.

On the other hand, learned counsel for the respondent-landlord submitted that the petitioner has his wife, son and daughter-in-law, for whom the premises in question is required. The official accommodation in his possession was merely two bed rooms, one bath room and one kitchen, whereas the accommodation in possession of the petitioner-tenant is three bed rooms, two bath rooms, one kitchen and verandah and besides that open space in front thereof was also available, which is not under tenancy with the petitioner-tenant. As regards separation of his son is concerned, even if the contention of the petitioner-tenant is taken as a gospel truth, still nothing prevented the son to rejoin the family. Both the learned Courts below have recorded concurrent findings of fact holding the personal necessity of the premises in question of the respondent-landlord to be genuine, which does not call for any interference in the revisional jurisdiction.

Having heard learned counsel for the parties, I do not find any merit in the present petition. It was stated by the respondent-landlord that the premises in question is required by him for his personal use and occupation of his son Mahinder Singh as the official accommodation available with him was not sufficient to accommodate the entire family. Admittedly, the official accommodation available with the respondent-landlord was merely two bed rooms set, whereas the demises premises contained three bed rooms, two bath rooms, with kitchen and verandah with open space as well. The respondent-landlord had let out the demised premises on rent to the

petitioner-tenant way back in the year 1991 at the rent of Rs.200/- as at that time, the same was not required for his personal use and occupation. However, with the passage of time, the need of the family increased and as a typical Indian family, the respondent-landlord considers his responsibility to settle his son and also to provide an accommodation to him. As far as the contention of the learned counsel for the petitioner-tenant that the learned Appellate Authority had not considered the issue in detail, the same is to be rejected as firstly the contention is not factually correct as the learned Appellate Authority has discussed the issue though not in much detail and further once the learned Appellate Authority was concurring with the findings recorded by the learned Rent Controller, the repetition of the entire discussion in detail was not the *sine qua non*. It is well established that as far as consideration of the bonafide need of the landlord is concerned, he is the master.

I do not find any reason to differ with the concurrent findings of fact of both the learned Courts below, finding the need of the respondent-landlord to be genuine. As far as pleading of the petitioner-tenant in the written statement to the effect that the son of respondent-landlord had in fact separated himself from the respondent-landlord, the same also does not have any bearing on the issue as the claim made in the petition for eviction is duly supported by evidence led by the respondent-landlord and his son for whose occupation the demised premises is required. The appearance of the son of the respondent-landlord as a witness in the case also shows that the family was still together and has not been separated. The son of the respondent-landlord had to live separately because of insufficient accommodation in possession of the respondent-landlord.

Accordingly, the revision petition is dismissed.

(Rajesh Bindal)
Judge

DATED: 08.10.2007
"DK"